

CONSTRUCTION AUTHORIZATION

§ 60.31 Construction authorization.

Upon review and consideration of an application and environmental impact statement submitted under this part, the Commission may authorize construction if it determines:

(a) *Safety.* That there is reasonable assurance that the types and amounts of radioactive materials described in the application can be received, possessed, and disposed of in a geologic repository operations area of the design proposed without unreasonable risk to the health and safety of the public. In arriving at this determination, the Commission shall consider whether:

(1) DOE has described the proposed geologic repository including but not limited to: (i) The geologic, geophysical, geochemical and hydrologic characteristics of the site; (ii) the kinds and quantities of radioactive waste to be received, possessed, stored, and disposed of in the geologic repository operations area; (iii) the principal architectural and engineering criteria for the design of the geologic repository operations area; (iv) construction procedures which may affect the capability of the geologic repository to serve its intended function; and (v) features or components incorporated in the design for the protection of the health and safety of the public.

(2) The site and design comply with the performance objectives and criteria contained in Subpart E of this part.

(3) The DOE's quality assurance program complies with the requirements of Subpart G of this part.

(4) The DOE's personnel training program complies with the criteria contained in Subpart H of this part.

(5) The DOE's emergency plan complies with the criteria contained in Subpart I of this part.

(6) The DOE's proposed operating procedures to protect health and to minimize danger to life or property are adequate.

(b) *Common defense and security.* That there is reasonable assurance that the activities proposed in the application will not be inimical to the common defense and security.

(c) *Environmental.* That, after weighing the environmental, economic, tech-

nical and other benefits against environmental costs and considering available alternatives, the action called for is issuance of the construction authorization, with any appropriate conditions to protect environmental values.

[46 FR 13980, Feb. 25, 1981, as amended at 48 FR 28220, June 21, 1983; 54 FR 27872, July 3, 1989; 63 FR 26961, May 15, 1998]

§ 60.32 Conditions of construction authorization.

(a) A construction authorization shall include such conditions as the Commission finds to be necessary to protect the health and safety of the public, the common defense and security, or environmental values.

(b) The Commission will incorporate in the construction authorization provisions requiring DOE to furnish periodic or special reports regarding: (1) Progress of construction, (2) any data about the site obtained during construction which are not within the predicted limits upon which the facility design was based, (3) any deficiencies in design and construction which, if uncorrected, could adversely affect safety at any future time, and (4) results of research and development programs being conducted to resolve safety questions.

(c) The construction authorization will include restrictions on subsequent changes to the features of the geologic repository and the procedures authorized. The restrictions that may be imposed under this paragraph can include measures to prevent adverse effects on the geologic setting as well as measures related to the design and construction of the geologic repository operations area. These restrictions will fall into three categories of descending importance to public health and safety as follows: (1) Those features and procedures which may not be changed without: (i) 60 days prior notice to the Commission (ii) 30 days notice of opportunity for a prior hearing, and (iii) prior Commission approval; (2) those features and procedures which may not be changed without (i) 60 days prior notice to the Commission, and (ii) prior Commission approval; and (3) those features and procedures which may not be changed without 60 days notice to